House Bill 845 (COMMITTEE SUBSTITUTE)
By: Representatives Strickland of the 111th, Powell of the 171st, Rutledge of the 109th, Bruce of the 61st, Pruett of the 149th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 1 of Title 35 and Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to general provisions for law enforcement officers and agencies and when public disclosure is not required, respectively, so as to prohibit the disclosure of arrest booking photographs under certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 1 of Title 35 of the Official Code of Georgia Annotated, relating to general provisions for law enforcement officers and agencies, is amended by adding a new Code section to read as follows:

"35-1-18. (a) As used in this Code section, the term 'booking photograph' means a photograph or image of an individual taken by an arresting law enforcement agency for the purpose of identification or taken when such individual was processed into a jail.

(b) Except as provided in Code Section 50-18-77, and booking photographs required for publication as set forth in Titles 16 and 40 and for the State Sexual Offender Registry, an arresting law enforcement agency or agent thereof shall not post booking photographs to or on a website.

(c) An arresting law enforcement agency shall not provide or make available a copy of a booking photograph in any format to a person requesting such photograph if:

(1) Such booking photograph may be placed in a publication or posted to a website or transferred to a person to be placed in a publication or posted to a website; and

(2) Removal or deletion of such booking photograph from such publication or website requires the payment of a fee or other consideration.

(d) When a person requests a booking photograph, he or she shall submit a statement affirming that the use of such photograph is in compliance with subsection (c) of this Code

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section. Any person who knowingly makes a false statement in requesting a booking photograph shall be guilty of a violation of Code Section 16-10-20."

SECTION 2.

Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public disclosure is not required, is amended by revising paragraph (4) of subsection (a) as follows:

"(4) Records of law enforcement, prosecution, or regulatory agencies in any pending investigation or prosecution of criminal or unlawful activity, other than initial police arrest reports and initial incident reports; provided, however, that an investigation or prosecution shall no longer be deemed to be pending when all direct litigation involving such investigation and prosecution has become final or otherwise terminated; and provided, further, that this paragraph shall not apply to records in the possession of an agency that is the subject of the pending investigation or prosecution; and provided, further, that the release of booking photographs shall only be permissible in accordance with Code Section 35-1-18;"

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.